

Date: May 12, 2017

To: Thomas J. Bonfield, City Manager
Through: W. Bowman Ferguson, Deputy City Manager
From: Marvin G. Williams, Director of Public Works
Subject: Revision to City Code Section 70-17 - Payment of Frontage Charges

Executive Summary

Section 70-17(b) of the City of Durham's Code of Ordinances states that as a condition to connecting a property to a water or sewer main, a "frontage charge shall apply to all frontage of the property on abutting streets which has not been previously assessed or paid for by the property owner regardless of whether or not such water main or sewer main, or both, have yet been installed abutting all frontage of the property." The code allows for exemptions when certain criteria are met, but based on various objections voiced over the years and the identification of potential inequities by staff, the City Manager's Office has directed the Public Works Department to bring this issue before City Council for consideration of a code revision. On March 7th 2016, the Public Works Department brought before City Council, the first phase of implementation of the code revisions to correct potential inequities. During that presentation to City Council, the Public Works Department stated that the proposed revisions would be presented to Council in multiple phases.

The proposed code revisions currently being presented are the second phase.. The phase two revisions concentrate on maximum and minimum frontage fees associated with single family residential houses on existing lots of record.

Recommendation

The Public Works Department recommends that City Council adopt an ordinance amending certain parts of Section 70-17(b) of the Durham City Code as noted in the attached code revision.

Background

Pursuant to City Code Section 70-17, prior to connecting to City water and sewer mains, each property must pay a frontage fee for all of its frontage along existing rights-of-way (unless the frontage fee has previously been paid), regardless of whether or not the water or sewer mains are installed in the rights-of-way. While this has proven to be a generally sound policy since its adoption in 1987, there are certain instances where an exception to the policy may be warranted. One such exception was put into place when Council adopted Ordinance 14195 on November 7, 2011, which authorized the City Manager to waive frontage charges for frontage of greater than 200 feet along a street in which the City did not plan to build water and sewer utilities.. Other exceptions were put into place when Council adopted Ordinance 14898 on March 7th 2016. These exceptions include: 1) Permitting staff to waive frontage charges in locations where utilities will never be installed and eliminating frontage charges for the first 200 feet, 2) Eliminating charges for rights of way that have not been constructed ("paper streets"), 3) Eliminating frontage charges when reimbursements of those

charges have expired by contract, and 4) Allowing frontage charges to be reduced by developer-incurred sanitary sewer outfall installation costs.

In addition to these items, further code revisions are being recommended to allow additional exemptions to the collection of frontage fees so that the costs of water and sewer infrastructure improvements are allocated more equitably. The specifics are outlined in the Issues and Analysis section of this memo.

Issues and Analysis

Revisions to Section 70-17 of the City code are recommended in order to address various concerns that have been voiced by residential property owners over the years and to alleviate potential inequities identified by staff related to the manner in which frontage fees are assessed. The following amendments to the ordinance are proposed.

- 1) The first modification is to limit frontage fee calculations to a maximum frontage length of 116 linear feet. This length was determined based upon a study of lots located throughout the City and County of Durham and an average frontage length was determined. The lots studied contained the following characteristics (See attachments B and C for lot locations and study data).
 - a. Lots included were from all areas of the City and County.
 - b. Lots were limited to 2 acres or less.
 - c. Lots were limited to single frontage lots to minimize large frontages which may skew the average.
 - d. The majority of lots contained buildings.
 - e. Tax values were reviewed for chosen lots to make sure cross sections included a range of housing costs.
- 2) The second modification is to establish a minimum frontage length of 50 feet for frontage fee calculations. This is to avoid unreasonably low frontage fees for flag and wedge-shaped lots. This length was selected since lots throughout Durham have historically been developed with 50 feet of frontage and this minimum length will result in more equitable frontage charges..

These changes will help provide a more equitable basis for determining frontage charges.

The following items should be noted as well:

- 1) All other alternatives and previous rules related to the calculation of frontage charges will remain in place and the changes recommended above do not supersede any . They are solely in addition to any existing requirements or restrictions. For example if a single family lot would not be required to pay frontage because they extended an outfall to serve the lot then that exemption stands and the ordinance changes would not require the payment of a minimum of 50 linear feet of frontage on top of an outfall extension.
- 2) In the event a private development is authorized to extend utilities across the frontage of a parcel that is already connected to existing utilities and the lot owner paid the maximum of 116 linear feet of frontage, a reimbursement will still be due to the private development for additional frontage across that lot where the developer extends the utilities. That reimbursement cost will be absorbed by the water and sewer fund.

This is functionally identical to how developers are currently reimbursed when corner lot relief is granted to a connected parcel.

Alternatives

The alternative would be to leave the ordinance as is and continue to collect frontage fees based upon the actual length of frontage or to adopt select portions of the recommended code revisions.

Financial Impacts

The financial impacts of this Code revision would be the loss of future frontage revenues that would normally be realized under the current practice for collecting those water and sewer frontage fees.

SDBE Summary

N/A